

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AMAURY GOMEZ,

Plaintiff,

-v-

THE CITY OF NEW YORK *et al.*,

Defendants.  
-----X

20 Civ. 1114 (JPC)

ORDER OF DISMISSAL

JOHN P. CRONAN, United States District Judge:

On December 22, 2021, the Court granted the request filed by John Grill to withdraw as attorney of record for Plaintiff Amaury Gomez. Dkt. 66. In that Order, the Court also stayed discovery and any other deadlines in this action for 30 days and directed Plaintiff to “retain new counsel or submit a letter to the Court indicating that he wishes to proceed *pro se*, or without representation” by January 21, 2022. *Id.* at 1. The Court advised that Plaintiff’s failure to do so may result in dismissal of his action without further notice. *Id.* The Court directed Mr. Grill to serve a copy of the December 22, 2021 Order on Plaintiff and to file proof of service within two business days of service. *Id.* at 2. On December 24, 2021, Mr. Grill filed an affidavit of service of the Court’s December 22, 2021 Order on Plaintiff at 444 Winters Avenue, West Hazleton, PA 18202. Dkt. 67.

After Plaintiff failed to retain new counsel or submit a letter to the Court indicating that he wishes to proceed *pro se* by the January 21, 2022 deadline, the Court issued an order on January 26, 2022 directing Plaintiff to “inform the Court by February 9, 2022, whether he intends to proceed with this case, and if so, . . . to show cause why his action should not be dismissed for failure to prosecute.” Dkt. 68 at 1. The Court further advised Plaintiff that if he “fails to inform the Court of

his intent to proceed with this case and show cause why his action should not be dismissed by February 9, 2022, the Court may dismiss this action for failure to prosecute without further notice.” *Id.* at 2. The docket reflects that a copy of the January 26, 2022 Order was mailed to Plaintiff at 444 Winters Avenue, West Hazelton, PA 18202. Plaintiff did not file anything by the February 9, 2022 deadline.

Rule 41(b) of the Federal Rules of Civil Procedure authorizes a court to dismiss an action for failure of the plaintiff “to prosecute or to comply with . . . a court order.” “Although the text of Fed. R. Civ. P. 41(b) expressly addresses only the case in which a defendant moves for dismissal of an action, it is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute.” *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001); *see also Lewis v. Rawson*, 564 F.3d 569, 575 (2d Cir. 2009) (the power of a district court to dismiss an action for violating a court order “has generally been considered an inherent power, governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases”). Plaintiff has failed to comply with the Court’s December 22, 2021 and January 26, 2022 Orders, and the Court provided notice to Plaintiff that failure to comply with the Court’s Orders would result in dismissal.

Accordingly, this action is dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure. Any pending motions are moot. All conferences are canceled. The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: February 16, 2022  
New York, New York

  
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JOHN P. CRONAN  
United States District Judge